

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Docket No: 1:005-cr-10223-NMG

UNITED STATES OF AMERICA

v.

SIR DAWAYNE HICKS

THE DEFENDANT'S OBJECTIONS TO THE PRESENTENCE REPORT

The defendant in the above entitled matter hereby moves, pursuant to Federal Rule of Criminal Procedure 32 and USSG §6A1.2(b), to notify the Probation Office for the United States District Court, District of Massachusetts, of the following objections to certain information and calculations contained within the Pre-Sentence Report. The objections include the following:

1. Paragraphs (1), and (34)-(36). The defendant objects to the probation department's application of an increased statutory maximum sentence pursuant to 21 U.S.C. § 841(b)(1)(B)iii, 21 U.S.C. 841(b), and 21 U.S.C. 851, and the determination that the defendant is a 'Career Offender'. These determinations are predicated on the use of alleged prior state court convictions. The government did not charge the defendant by way of Indictment and did not prove the now alleged state court prior convictions to a jury beyond a Reasonable Doubt. The use of said prior

convictions is in violation of the defendant's constitutional rights as guaranteed by the Fifth and Sixth Amendments to the Constitution of the United States of America.

2. Paragraph (42). The defendant objects to the use of a Massachusetts State Court 'Guilty Filed' disposition as a conviction on Plymouth District Court No. 9659CR2584

3. The defendant further notifies probation that he will file a Sentencing Memorandum with the court and nothing in this notice of objections shall limit his right to seek any and all downward departures, to seek a sentence outside of the guidelines or to seek any other legal relief available.

By his attorney,

/s/ Joseph F. Krowski Jr.  
JOSEPH F. KROWSKI JR.  
30 Cottage Street  
Brockton, MA. 02301  
508-584-2555

Dated: August 24, 2007

CERTIFICATE OF SERVICE

I, Joseph F. Krowski Jr., do hereby certify that on this 24<sup>th</sup> day of August, 2007, I served a copy of the Defendant's Objections to the Pre-sentence Report (By electronic filing and mail) upon: The Office of the United States Attorney, and the Office of the United States Probation Department.

/s/ Joseph F. Krowski Jr.  
Joseph F. Krowski Jr.